

(2)
No. 89-109

Supreme Court, U.S.

FILED

SEP 5 1989

JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States
October Term, 1989

MEAD EMBALLAGE, S.A.,

Petitioner,

v.

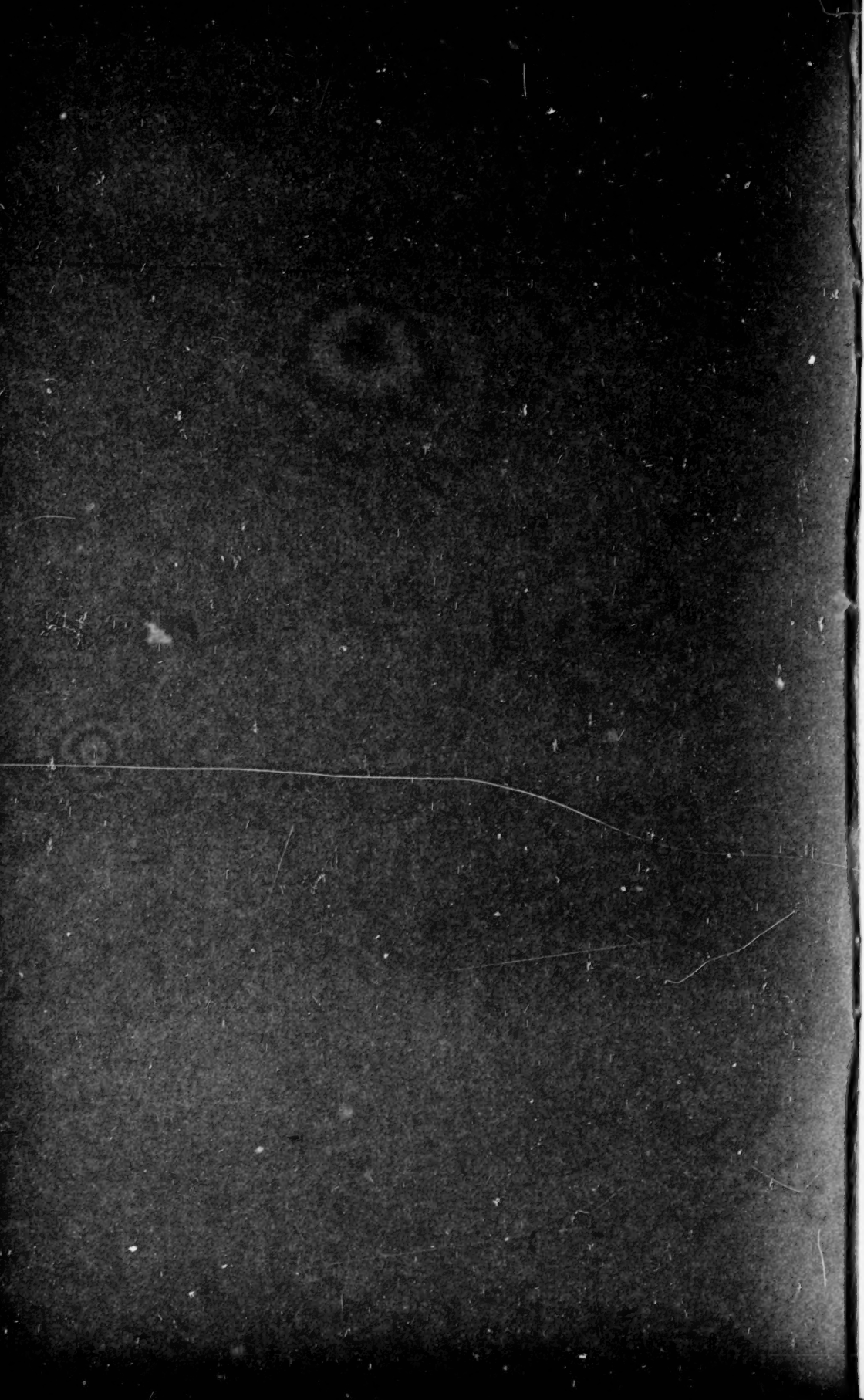
SEAN BERNSTEIN,

Respondent.

BRIEF IN OPPOSITION
TO PETITION FOR WRIT OF CERIORARI

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QUESTIONS PRESENTED

Petitioner has placed a statement of facts before the questions presented portion of its brief. This statement of facts has to be seen in its proper perspective. The French component part manufacturer is the subsidiary of an American corporation that has its headquarters in Dayton, Ohio and its main office in Atlanta, Georgia. The patent on its product and even its French trademark are owned by the American parent. Its operations are overseen by an agent of Mead Packaging from Atlanta, Georgia.

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STATEMENT OF THE CASE

Respondent would add the following to the petitioner's Statement of the Case. Mead Emballage, S.A. is a part of Mead Packaging. Mead Packaging has its corporate headquarters in Dayton, Ohio and its "main office" in Atlanta, Georgia. Mead Packaging financed and set up Mead Emballage, S.A.

The Mead Corporation of Dayton, Ohio holds the patent on the cluster pak at issue. The cluster pak trademark in France is owned by "THE MEAD CORPORATION (Societe des Etats-Unis d'Amerique), Mead World Headquarters, Courthouse Plaza Northeast, Dayton, Ohio 45463." The cluster pak design was "relayed" from Mead Packaging to Mead Emballage, S.A. Ken Watkins of Mead Packaging testified: "Of course at times if we are designing something in the states and have a good idea that helps a package, we would transmit that to any of the operations." According to a Mead Packaging International Inter office memo dated January 24, 1980: "The production department, as well as the gentleman who purchases all of the rotogravure cylinders for the Atlanta plant, has evaluated the Perrier carton. . . ." Mr. Watkins goes to all of the plants of Mead to see their operations and look at their designs. He went to the Mead Emballage, S.A. plant four times.

During 1984, there were 848,976 six packs of the Perrier cluster pak sold within the State of Florida. During 1985, the figure increased to 989,428 six packs and in 1986 the number of six packs sold in Florida was 1,352,308. According to Mr. Watkins, Mead Packaging was "well aware that Mead Emballage sends these cluster

packs to the United States for distribution" and he assumed that they were invariably going to all of the States in the United States.

On the day the trial court ruled on the motion to dismiss petitioner filed with the court answers to interrogatories and responses to request for production that did relate to the issue of the court's jurisdiction over the petitioners.

REASONS WHY PETITION SHOULD BE DENIED INTRODUCTION

The petition does not truly present the issue decided in *Asahi Metal Industry Co. v. Superior Court*, 480 U.S. 112 (1987). Unlike the third party defendant in *Asahi*, the petitioner is not a truly foreign corporation, but rather a wholly owned subsidiary of an American parent company. Its key witnesses are in Atlanta and travel to Miami does not present the burden that would have been placed on the third party defendant in *Asahi*. Travel between Atlanta and Miami is not uncommon in today's commerce and legal affairs. In actuality, it is travel to France, where the petitioner claims to be from, which would cause the greater inconvenience and expense to even the petitioner. The petitioner is not being asked to submit its dispute to a foreign legal system, but rather the legal system of its own country. If anything, it would be the courts and court practice in France that would be foreign to the parties in this case.

Asahi involved only the indemnification claim of a Japanese defendant against a Taiwanese third party

defendant. The plaintiff's claim had already been settled. The instant case is different as it involves the direct claim of a Florida resident against the manufacturer of the defective package. It is not merely more convenient to sue in Florida, but for all intents and purposes the respondent could not sue the petitioner in France. The cost of taking witnesses and the respondent to a court thousands of miles away is prohibitive, the proceedings would be in a language which neither the respondent nor his witnesses speak and the substantive and procedural standards are totally foreign to the respondent.

In *Asahi* the transaction on which the indemnification claim was based took place in Taiwan. Here, the respondent's injury and subsequent medical treatment took place in Dade County, Florida. Unlike *Asahi*, Florida does have a legitimate interest in protecting its residents from defective packages sold in Florida groceries and in applying its own standards of substantive law to this case. If one looks at the real interests at stake, it can be seen that there are no policies of other nations that could be affected as there was in *Asahi*. The only other jurisdictions really involved, Ohio and Georgia, share an interest in the social policy of compensating injured victims for the negligence of others in designing and manufacturing consumer products.

I.

IN THE CONTEXT OF THE FACTS OF THIS CASE THE LAW IS NOT UNCLEAR

Millions of the petitioner's products were shipped into Florida each year and the petitioner knew it. The

"ostrich" theory for which the petitioner argues, whereby it can ignore the known consequences of its actions by moving offshore and dealing through an intermediary, is not, and never has been, supported by the case law which has centered on "traditional notions of fair play and substantial justice" in determining whether a court could exercise in personam jurisdiction.

Asahi Metal Industries Co. v. Superior Court was not decided in a vacuum, but rather in the context of the cases that preceded it. In the seminal case of *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945), this court adopted the standard that in order to exercise jurisdiction over a foreign corporation there must be minimum contacts so that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. This has remained unchanged as the core of the law in this area. Accepting this starting point, the court in *McGee v. International Life Insurance Co.*, 355 U.S. 320, 222 (1957), recognized that "a trend is clearly discernible toward expanding the permissible scope of state jurisdiction over foreign corporations and other nonresidents." The court recognized that:

[w]ith this increasing nationalization of commerce has come a great increase in the amount of business conducted by mail across state lines. At the same time modern transportation and communication have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity.

McGee, 355 U.S. at 323. The trend continued in *Shaffer v. Heitner*, 433 U.S. 186, 202 (1977), where the court stated that the advent of automobiles and accommodation to the realities of interstate corporate activities required further

moderation of the territorial limits on jurisdictional power. The bottom line as the *Shaffer** court saw it was that:

[w]hile the essentially quantitative tests which emerged from these cases purported simply to identify circumstances under which presence or consent could be attributed to the corporation, it became clear that they were in fact attempting to ascertain "what dealings make it just to subject a foreign corporation to local suit."

433 U.S. at 203.

This standard is carried over in *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 206, 292 (1980), where it is written:

We have said that the defendant's contacts with the forum State must be such that maintenance of the suit "does not offend 'traditional notions of fair play and substantial justice.'" [citation omitted]. The relationship between the defendant and the forum must be such that it is "reasonable to require the corporation to defend the particular suit which is brought there."

The rule of *World-Wide Volkswagen* was that if the defendant's conduct and connection with the forum state are such that he should reasonably anticipate being haled into court there, then he had the minimum contacts to be subject to the court's jurisdiction. 444 U.S. at 297.

These various standards linking minimum contacts to traditional notions of fair play and substantial justice and the defendant's reasonably anticipating that he would be haled into court in the forum state are repeated and readopted in *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1989), and *Calder v. Jones*, 465 U.S. 783 (1984). In

upholding a different portion of Florida's long arm statute than is involved in the present case, the court in *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985), relied on the cases cited above.

The plurality opinion in *Asahi* did not break from this body of law. Even in Part II-A it cites to and relies on each of the decisions above, with the exception of *Calder v. Jones*. The standard that remains is what comports with traditional notions of fair play and substantial justice and after what conduct should a defendant reasonably anticipate being haled into court in the forum state. Under the facts of the present case, two courts have held that the petitioner should have reasonably anticipated being haled into a Florida court and it promotes fair play and substantial justice to allow a Florida court to decide the case.

It is not a matter of national concern that local Florida courts have followed the precedents of the U.S. Supreme Court. It is also not a matter for justice at the Supreme Court level to pick through the facts of each case to determine if a defendant should have anticipated being haled into a particular court and whether the outcome in each case comports with fair play and substantial justice. We are reminded in *Shaffer v. Heitner*, 433 U.S. at 204, that what counts is the relationship among the defendant, the forum and the litigation rather than the mutually exclusive sovereignty of the states and in *Hanson v. Denckla*, 357 U.S. 235, 253 (1958), that the application of the rule will vary with the quality and nature of the defendant's activities. If the United States Supreme Court were called upon to review this inexact calculation in every run-of-the-mill case in the country that decides this

issue, it would rule on nothing but in personam jurisdiction cases.

Petitioner claims that the decision of the Florida Third District Court of Appeal is in conflict with *Asahi Metal Industries Co.* and that *Asahi* cannot possibly be cited for the proposition that the courts of Florida could assert jurisdiction over Mead. This assertion misses the point of the lower court's decision in the present case and of the entire body of this court's case law cited above. After having taken into account the relationship among the petitioner, the forum and the litigation, and after accounting for the quality and nature of the petitioner's activities, it was reasonable that the petitioner should have foreseen that it would be haled into court in Florida. To do so comports with traditional notions of fair play and substantial justice.

II.

THE DECISION IN THE PRESENT CASE DOES NOT CONFLICT WITH THE BINDING PRECEDENT IN FEDERAL COURTS OF APPEALS

Petitioner relies on three opinions of federal courts of appeals to show a conflict in deciding a federal question. Each of the three cases cited by the petitioner was decided before *Asahi Metal Industries Co.* Since the *Asahi* decision was rendered, the Eighth Circuit, on which the petitioner relies for conflict, has decided *Austad Co. v. Pennie & Edmonds*, 823 F.2d 223 (8th Cir. 1987). That decision, and not *Humble v. Toyota Motor Co.*, 727 F.2d 709 (8th Cir. 1984), would appear to be the controlling precedent in the Eighth Circuit. The *Austad* opinion sets forth a

5 factor test which is perfectly consistent with the decision of the Florida courts in the present case. The opinion relies on the U.S. Supreme Court decisions mentioned in the first part of this brief and reaffirms the rules of law cited above.

Petitioner discusses, at some length, its theories on the doctrine of strict liability in tort. Those theories have really nothing to do with the present matter. This case was not pleaded as a strict liability case. Rather the tort claim sounds in negligence. The essence of the petitioner's argument is that the respondent should not sue the petitioner, but instead sue someone who is subject to suit in Florida. By doing this, it is arguing that responsibility should be shifted away from the party at fault, Mead, and placed on a co-defendant, Great Waters of France, which is more of a foreign corporation than Mead is. Respondent on the other hand wants to ask a jury for damages against someone who is truly at fault, not someone who has been placed in the defendant's chair merely because of a judicial fiction. Because of the reality of jury dynamics, respondent should not be forced to give up this right in order to promote a doctrine of strict liability which has not even been pleaded in this case.

The argument petitioner really presents this court is encouragement for American companies to establish off-shore manufacturing subsidiaries, to market their products through intermediaries located outside the United States, ~~to accept~~ the profits that result from the eventual marketing to the American public, and then to thumb their noses at American courts when a dangerously designed package injures a consumer in an American grocery store. There is something so fundamentally

unfair about the petitioner's position that the federal courts of appeals on which it relies for conflict could not have intended to be in favor of such a rule of law.

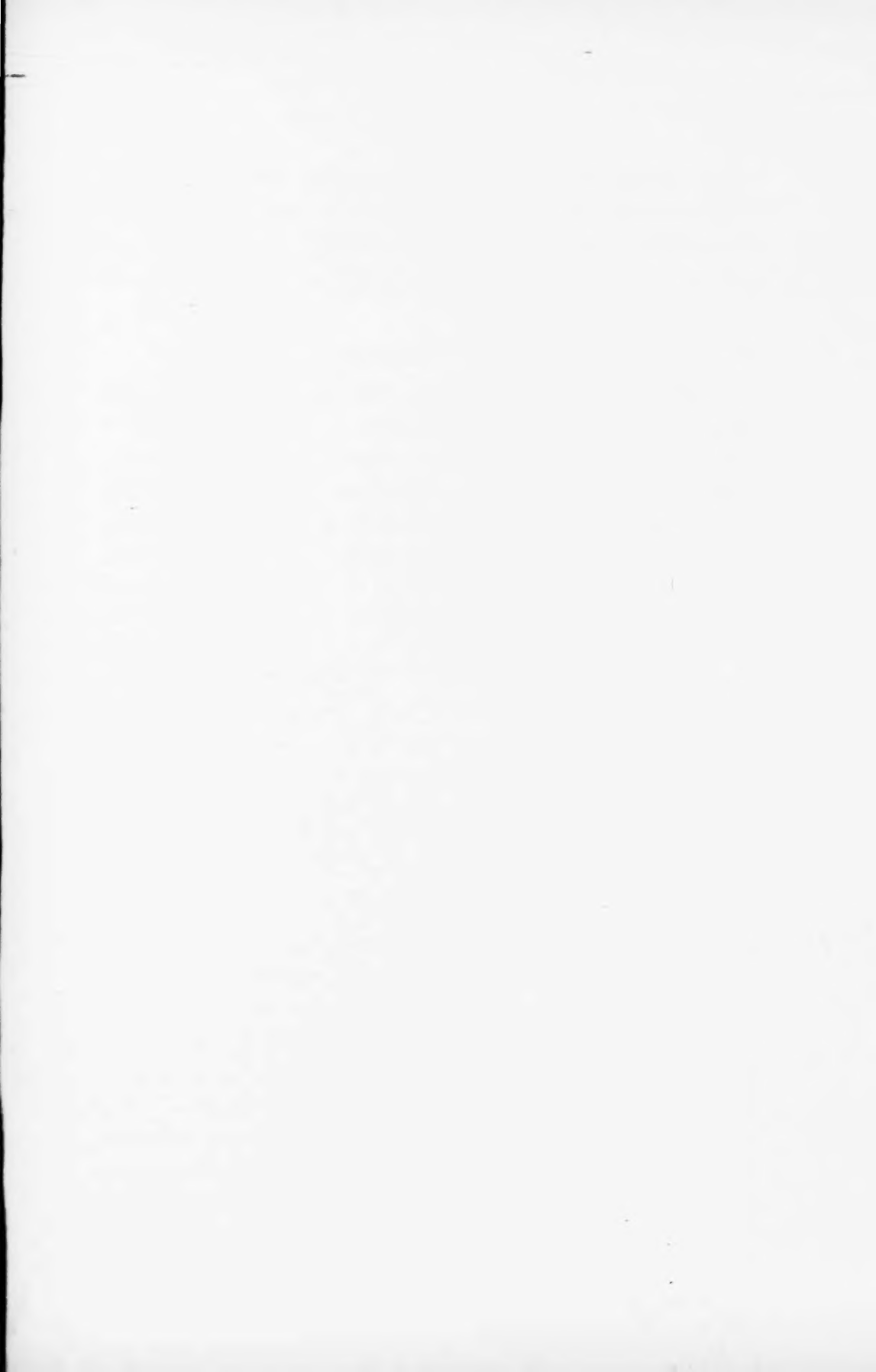
CONCLUSION

As the issue raised by the facts of this case is fairly settled by the decisions of this court and as the ruling of the Florida courts does not conflict with the binding precedent in any of the federal courts of appeals, when placed in the context of the facts of the present case, respondent prays that the court deny the petition for writ of certiorari.

Date: September 5, 1989

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App. 1

IN THE CIRCUIT COURT OF THE ELEVENTH
JUDICIAL CIRCUIT IN AND FOR
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NUMBER 88 25911

Bar Number 108181

SEAN BERNSTEIN,

Plaintiff,

vs.

GREAT WATERS OF FRANCE,
INC., a foreign corporation, and
THE MEAD CORPORATION, a
foreign corporation,

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, SEAN BERNSTEIN, by and through his undersigned attorneys, and sues the Defendants, GREAT WATERS OF FRANCE, INC., a foreign corporation (hereinafter referred to as "GREAT WATERS"), and THE MEAD CORPORATION, a foreign corporation (hereinafter referred to "MEAD"), and alleges:

1. This is an action for damages which greatly exceed FIVE THOUSAND (\$5,000.00) DOLLARS.
2. The Defendant, GREAT WATERS, is a foreign corporation which conducts business throughout the State of Florida and in particular in Dade County, Florida.
3. The Defendant, MEAD, is a foreign corporation which conducts its business throughout the United States and particularly in Miami, Dade County, Florida.

App. 2

4. At all times material herein, the Defendant, GREAT WATERS, was engaged in the business of bottling, distributing, packaging, merchandising, and the overall manufacture of Perrier soft drink products for sale in the area of Dade County, Florida.

5. The Defendant, MEAD, through its subsidiary, MEAD EMBALLAGE, is in the business of manufacturing, selling and/or furnishing to its distributors the materials and supplies utilized for the purpose of packaging and merchandising six (6) 6-1/2 ounce bottle cluster-paks of Perrier soft drinks.

6. On or about November 24, 1986, the Plaintiff was employed by Publix Supermarkets at their Store Number 0030 located at 2952 Aventura Boulevard, North Miami Beach, Florida.

7. Within said supermarket, packages of six (6) 6-1/2 ounce bottles of Perrier were placed on store shelves by employees for sale to customers.

8. The 6-pack of Perrier contained six (6) 6-1/2 ounce bottles held together within a cardboard wrapper package.

9. The subject carton of six (6) Perrier soft drinks had been bottled, manufactured, assembled and packaged by the Defendant, GREAT WATERS and/or MEAD, and distributed to the subject Publix store as a finished product, ready for retail sale.

10. Said Perrier 6-packs were packaged in a pasteboard carton and delivered to the subject Publix supermarket as a finished product, namely, a carton of six (6) bottles of such soft drinks, ready for retail sale.

11. Said pasteboard carton was incorporated in and was an integral part of the finished product.

12. Said 6-pack was manufactured, bottled, assembled and/or distributed for profit by the Defendant, GREAT WATERS, and/or MEAD.

COUNT I - IMPLIED WARRANTY

13. By offering such a package for sale and use to the public, the Defendants, GREAT WATERS and/or MEAD, did impliedly warrant to the public, including this Plaintiff, that said package was sound and safe to use and to handle as aforesaid.

14. The Defendants, GREAT WATERS and/or MEAD, impliedly warranted that said carton was reasonably fit for the general purpose for which it was provided and sold, namely, for the purpose of carrying six (6) 6-1/2 ounce Perrier soft drink bottles.

15. In fact, however, the carton was not fit for the general purpose for which it was provided and in fact was defective, dangerous and unsafe.

16. The defective condition of said carton was latent.

17. The Defendants, GREAT WATERS and/or MEAD, had a superior opportunity to inspect and discover said defect.

18. The public in general and the Plaintiff specifically relied upon the skill and judgment of the Defendants in design and use of the subject carton.

19. The Plaintiff, SEAN BERNSTEIN, was asked pursuant to his job duties, to carry one of these 6-pack packages from the store shelves to the checkout counter.

20. When carrying the said carton to the checkout counter, the Plaintiff was holding the carton in the manner provided for the purpose of carrying said carton, when the bottom of the carton gave way, allowing one of the Perrier soft drink bottles to fall and explode upon impact with the floor thereby propelling glass and other foreign material into the Plaintiff's eye causing serious and permanent injuries and damages more particularly described hereinbelow.

21. As a direct and proximate result of the Defendants' breach of implied warranty, as hereinabove alleged, Plaintiff, SEAN BERNSTEIN, was injured, wounded, bruised, contused and/or shocked in and about his body and nervous system and/or aggravated a pre-existing condition and suffered other injuries not as yet diagnosed, all of which are permanent and continuing in their nature.

22. As a direct and proximate result of the Defendants' breach of implied warranty, as hereinabove alleged, Plaintiff, SEAN BERNSTEIN, was compelled to seek hospital, medical and/or nursing care and attention and will in the future be compelled to undergo further care and treatment in an effort to seek relief from his injuries. In addition, Plaintiff has in the past and will in the future incur hospital, medical and/or nursing expenses in connection with the injuries sustained herein.

23. As a direct and proximate result of the Defendants' breach of implied warranty, as hereinabove

alleged, Plaintiff, SEAN BERNSTEIN, suffered physical handicaps and disabilities in connection with his usual activities and recreations, lost time from work, suffered loss of earnings or earning capacity and will continue to suffer such losses, handicaps and disabilities in the future.

24. As a direct and proximate result of the Defendants' breach of implied warranty, as hereinabove alleged, Plaintiff, SEAN BERNSTEIN, has in the past and will in the future endure pain and suffering, shame and humiliation, personal inconvenience and inability to lead a normal life.

WHEREFORE, Plaintiff, SEAN BERNSTEIN, demands judgment for damages against the Defendants, GREAT WATERS and MEAD, costs and further demands a Jury Trial of all issues triable by a jury as a matter of right.

COUNT II - NEGLIGENCE

25. Plaintiff, SEAN BERNSTEIN, herein realleges and reavers each and every allegation contained in Count I as if fully set forth herein.

26. The Defendant, GREAT WATERS and/or MEAD, owed a duty to the public in general, and to the Plaintiff, SEAN BERNSTEIN, specifically, to exercise reasonable care in their design, manufacture, assembly and distribution of the subject Perrier 6-pack.

27. Further, the Defendant, GREAT WATERS and/or MEAD, owed a duty to exercise reasonable care

in their choice of a wrapper or package for the subject Perrier 6-pack.

28. Further, the Defendant, GREAT WATERS and/or MEAD, owed a duty to exercise reasonable care so as to design, assemble and distribute a package which would safely and adequately hold the intended bottles of Perrier and not pose any unreasonable risk of harm or injury to users of the product.

29. The Defendant, GREAT WATERS and/or MEAD, was careless and negligent and fell below the accepted standard of its industry by selecting the particular materials and design of wrapper utilized for the subject package.

30. Further, the Defendant, GREAT WATERS and/or MEAD, was careless and negligent by manufacturing, assembling and distributing the subject Perrier package which was dangerous and posed an unreasonable risk of harm or injury to users, especially in light of other safer methods of packaging charged bottles such as the subject Perrier bottles.

31. Further, the Defendant, GREAT WATERS and/or MEAD, was careless and negligent by failing to warn users of the subject package of the dangers and hazards presented by this type of package, especially in light of the superior knowledge and experience said Defendant had with packaging and distribution of Perrier and/or other charged soft drink bottles.

32. As a direct and proximate result of the negligence of the Defendant, as aforesaid, the Plaintiff, SEAN

BERNSTEIN, suffered the injuries and damages more particularly described hereinabove.

WHEREFORE, Plaintiff, SEAN BERNSTEIN, demands judgment for damages against the Defendants, GREAT WATERS and MEAD, costs and further demands a Jury Trial of all issues triable by a jury as a matter of right.

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DE CASTRO, P.A.
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(305) 858-5550

By: /s/ Arnold D. Hessen
ARNOLD D. HESSEN
Bar Number 108181

App. 8

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 88-25911 CA 16
BAR NO. 108181

SEAN BERNSTEIN,

Plaintiff,

vs.

NOTICE OF FILING

GREAT WATERS OF FRANCE,
INC., a foreign corporation, and
MEAD EMBALLAGE, S.A., a for-
eign corporation,

Defendants.

_____/

PLEASE TAKE NOTICE that the Plaintiff, SEAN BERNSTEIN, by and through his undersigned attorneys, is filing those documents listed herein with the Court in the above-styled cause pursuant to Florida Rules of Civil Procedure, for use at trial and other matters pending before this Court.

1. Plaintiff's Request to Produce to Defendant, MEAD EMBALLAGE, S.A.
2. Defendant, MEAD EMBALLAGE, S.A.'s, response to Request to Produce.
3. Plaintiff's Interrogatories to Defendant, MEAD EMBALLAGE, S.A., and the Answers thereto.
4. Plaintiff's Interrogatories to Defendant, GREAT WATERS OF FRANCE, INC., and the Answers thereto.

5. Defendant, MEAD EMBALLAGE, S.A.'s, Interrogatories to GREAT WATERS OF FRANCE, INC., along with their Answers thereto.
6. Plaintiff's Request to Produce to Defendant, GREAT WATERS OF FRANCE, INC.
7. Defendant, GREAT WATERS OF FRANCE, INC.'s, response to Request to Produce.
8. Defendant, GREAT WATERS OF FRANCE, INC.'s, Memorandum of Law in Opposition to Mead Emballage, S.A.'s Motion to Dismiss.
9. Photocopy of representative "cluster-pak" which is the subject of this litigation and constituted part of Plaintiff's evidence in response to Defendant, MEAD EMBALLAGE, S.A.'s, Motion to Dismiss.
10. Photocopy of liability policy providing coverage to Defendant, MEAD EMBALLAGE, S.A., worldwide.
11. Florida Statute 48.193(1)(f)(2).
12. Cases presented to the Court in response to Defendant, MEAD EMBALLAGE, S.A.'s, Motion to Dismiss; to-wit:
Ford Motor Company vs. Atwood Vacuum Machine Company;
Yale Industrial Products, Inc. vs. Gulfstream Galvanizing and Finishing, Inc.; and
Pennington Grain & Seed, Inc. vs. Murrow Brothers Seed Co., Inc.

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing was hand-delivered this 15th day of March, 1989, to: Charles P. Flick, Esquire, 2400 AmeriFirst Building, One Southeast Third Avenue, Miami, Florida, 33131 and David R. Howland, Esquire, 145 Almeria Avenue, Coral Gables, Florida, 33145.

App. 10

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DE CASTRO, P.A.
Coral Plaza, Suite 400
2100 Coral Way
Miami, Florida 33145
(305) 858-5550

By: /s/ Arnold D. Hessen
ARNOLD D. HESSEN

App. 11

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 88-25911 CA 06

SEAN BERNSTEIN,

Plaintiff,

vs.

GREAT WATERS OF
FRANCE, INC., et al.,

Defendants.

INTERROGATORIES TO
DEFENDANT GREAT
WATERS OF
FRANCE, INC.

FL. BAR #253324

The Defendant, MEAD EMBALLAGE, S.A., herein propounds the following 4 Interrogatories to the Defendant GREAT WATERS OF FRANCE, INC., to be answered within the time provided by the applicable Florida Rules of Civil Procedure.

WE HEREBY CERTIFY that the original of the following Interrogatories were mailed to: David R. Howland, Esq., Ress, Gomez, Rosenberg, Howland & Mintz, P.A., 1700 Sans Souci Blvd., North Miami, Florida 33181 this 17th day of January, 1989.

BLACKWELL, WALKER, FASCELL
& HOEHL

Attorneys for Defendant Mead

By: /s/ William Bromagen
for Charles P. Flick
2400 AmeriFirst Building
One Southeast Third Avenue
Miami, Florida 33131
(305) 358-8880

*INTERROGATORIES TO GREAT WATERS
OF FRANCE, INC.*

1. From 1984 through 1986 was GREAT WATERS OF FRANCE, INC. the exclusive distributor of 2X3 6¹/₂ ounce Perrier Cluster-Pak packages within the state of Florida? If not, please state the full name and address of any other distributor of this product within the state of Florida during the stated time period.

YES

2. Please state the total number of 2X3 6¹/₂ ounce Perrier Cluster-Pak packages sold by GREAT WATERS OF FRANCE, INC. within the state of Florida in 1984.

212,244 Cases of Perrier containing Cluster-Pak packages.

Total: 848,976 six-packs.

3. Please state the total number of 2X3 6¹/₂ ounce Perrier Cluster-Pak packages sold by GREAT WATERS OF FRANCE, INC. within the state of Florida in 1985.

247,357 Cases of Perrier containing Cluster-Pak packages.

Total: 989,428 six-packs.

4. Please state the total number of 2X3 6¹/₂ ounce Perrier Cluster-Pak packages sold by GREAT WATERS OF FRANCE, INC. within the state of Florida in 1986.

338,092 Cases of Perrier containing Cluster-Pak packages.

Total: 1,352,368 six-packs.

GREAT WATERS OF FRANCE, INC.

By: /s/ Douglas E. Rousseau

STATE OF)
) SS:
COUNTY OF)

BEFORE ME, the undersigned authority, this day, personally appeared Douglas E. Rousseau, who being by me first duly sworn, deposes and says that he has executed the foregoing Interrogatories and they are true and correct to the best of h___ knowledge and belief.

SWORN TO AND SUBSCRIBED before me this 8th day of Feb., 1989.

/s/ Meribeth Wyman
Notary Public, State of CONN. at
Large

My Commission Expires:

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the original Answers to Interrogatories was mailed this ___ day of ___, 198___ to:

App. 14

THE UNITED STATES OF AMERICA

(SEAL)

CERTIFICATE OF RENEWAL

Reg. No. 617322

Application to renew the above identified registration having been duly filed in the Patent and Trademark Office and there having been compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

This is to certify that said registration has been renewed in accordance with the Trademark Act of 1946 to The Mead Corporation of Dayton, Ohio

Ohio Corporation and said registration will remain in force for twenty years from December 13, 1975 unless sooner terminated as provided by law.

In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this eighteenth day of May, 1976.

/s/ C. Marshall Dann
COMMISSIONER OF PATENTS
AND TRADEMARKS

App. 15

United States Patent Office

617,322
Registered Dec. 13, 1955

PRINCIPAL REGISTER
Trademark

Ser. No. 681,480, filed Feb. 11, 1955

CLUSTER-PAK

Atlanta Paper Company
(Georgia corporation)
950 W. Marietta St., N. W.
Atlanta, Ga.

For: FOLDING
PAPERBOARD CARTONS,
CORRUGATED PAPER-
BOARD SHIPPING CON-
TAINERS, AND CARRY-
HOME CARTONS OF
PAPER AND PAPER-
BOARD, in CLASS 2.

First used Jan. 12, 1955,
and in commerce Jan. 12,
1955.

App. 16

Mead Packaging International

inter office memo

to	OLINDO IACOBELLI	copies
subject	PERRIER	CLAUDE BOUTINEAU
date	JANUARY 24, 1980	DAVE STEVENS
	(dictated 1/10/80)	

The production department, as well as the gentleman who purchases all of the rotogravure cylinders for the Atlanta plant, has evaluated the Perrier carton which was produced on the rotogravure in Chateauroux compared to an offset-printed carton which I had available here in Atlanta.

Attached you will find Jack Warner's comments. Jack has a degree in printing technology from Rochester Institute and is quite good in his field. Ten years ago he came to Chateauroux to be of whatever assistance he could on the Goebel press in order to try to resolve some of the problems that were being experienced on that press approximately eight or nine years ago.

I believe the correspondence is self-explanatory; however, if there is any additional information which we can obtain for you or anything which we might do in order to help get better utilization of the rotogravure, please let me know.

/s/ Charles Lanier
CHARLES E. LANIER

